

Calendar No. 827

106TH CONGRESS
2D SESSION**S. 2950****[Report No. 106–418]**

To authorize the Secretary of the Interior to establish the Sand Creek
Massacre National Historic Site in the State of Colorado.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mr. CAMPBELL introduced the following bill; which was read twice and
referred to the Committee on Energy and Natural Resources

SEPTEMBER 25 (legislative day, SEPTEMBER 22), 2000

Reported by Mr. MURKOWSKI, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To authorize the Secretary of the Interior to establish the
Sand Creek Massacre National Historic Site in the State
of Colorado.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sand Creek Massacre
5 National Historic Site Establishment Act of 2000”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) on November 29, 1864, a peaceful village of
4 Cheyenne and ~~Northern and Southern~~ Arapaho Indi-
5 ~~ans~~ *Indians under the leadership of Chief Black Ket-*
6 *tle*, along Sand Creek in southeastern Colorado terri-
7 tory was attacked by approximately 700 volunteer
8 soldiers commanded by Colonel John M. Chivington;

9 (2) more than 150 Cheyenne and Arapaho were
10 killed in the attack, most of whom were women, chil-
11 dren, or elderly;

12 (3) during the massacre and the following day,
13 the soldiers committed atrocities on the dead before
14 withdrawing from the field;

15 (4) the site of the Sand Creek Massacre is of
16 great significance; to descendants of the victims of
17 the massacre and their respective tribes, for the
18 commemoration of ancestors at the site;

19 (5) the site is a reminder of the tragic extremes
20 sometimes reached in the 500 years of conflict be-
21 tween Native Americans and people of European
22 and other origins concerning the land that now com-
23 prises the United States;

24 (6) Congress, in enacting the Sand Creek Mas-
25 sacre National Historic Site Study Act of 1998
26 (Public Law 105–243; 112 Stat. 1579), directed the

1 National Park Service to complete a resources study
2 of the site;

3 (7) the study completed under that Act—

4 (A) identified the location and extent of
5 the area in which the massacre took place; and

6 (B) confirmed the national significance,
7 suitability, and feasibility of, and evaluated
8 management options for, that area, including
9 designation of the site as a unit of the National
10 Park System; and

11 (8) the study included an evaluation of environ-
12 mental impacts and preliminary cost estimates for
13 facility development, administration, and necessary
14 land acquisition.

15 (b) PURPOSES.—The purposes of this Act are—

16 (1) to recognize the importance of the Sand
17 Creek Massacre as—

18 (A) a nationally significant element of
19 frontier military and Native American history;
20 and

21 (B) a symbol of the struggles of Native
22 American tribes to maintain their way of life on
23 ancestral land;

1 (2) to authorize, on acquisition of sufficient
 2 land, the establishment of the site of the Sand Creek
 3 Massacre as a national historic site; and

4 (3) to provide opportunities for ~~tribes~~ *for the*
 5 *tribes and the State* to be involved in the formulation
 6 of general management plans and educational pro-
 7 grams for the national historic site.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) DESCENDANT.—The term “descendant”
 11 means a member of a tribe, an ancestor of whom
 12 was injured or killed in, or otherwise affected by, the
 13 Sand Creek Massacre.

14 (2) MANAGEMENT PLAN.—The term “manage-
 15 ment plan” means the management plan required to
 16 be developed for the site under section 7(a).

17 (3) SECRETARY.—The term “Secretary” means
 18 the Secretary of the Interior, acting through the Di-
 19 rector of the National Park Service.

20 (4) SITE.—The term “site” means the Sand
 21 Creek Massacre National Historic Site established
 22 under section 4(a).

23 (5) STATE.—The term “State” means the State
 24 of Colorado.

25 (6) TRIBE.—The term “tribe” means—

- 1 (A) the ~~Cheyenne Tribe~~ *Cheyenne and*
 2 *Arapaho Tribes* of Oklahoma;
 3 ~~(B) the Arapaho Tribe of Oklahoma;~~
 4 ~~(C)~~ (B) the Northern Cheyenne Tribe; or
 5 ~~(D)~~ (C) the Northern Arapaho Tribe.

6 **SEC. 4. ESTABLISHMENT.**

7 (a) IN GENERAL.—

8 (1) DETERMINATION.—On a determination by
 9 the Secretary that land described in subsection
 10 (b)(1) containing a sufficient quantity of resources
 11 to provide for the preservation, memorialization,
 12 commemoration, and interpretation of the Sand
 13 Creek Massacre has been acquired by the National
 14 Park Service, the Secretary shall establish the Sand
 15 Creek Massacre National Historic Site, Colorado.

16 (2) PUBLICATION.—The Secretary shall publish
 17 in the Federal Register a notice of the determination
 18 of the Secretary under paragraph (1).

19 (b) BOUNDARY.—

20 (1) MAP AND ACREAGE.—The site shall consist
 21 of approximately 12,480 acres in Kiowa County,
 22 Colorado, the site of the Sand Creek Massacre, as
 23 generally depicted on the map entitled, “Boundary
 24 of the Sand Creek Massacre Site”, numbered,
 25 SAND 80,009 IR, and dated July 1, 2000.

1 (2) **LEGAL DESCRIPTION.**—The Secretary shall
2 prepare a legal description of the land and interests
3 in land described in paragraph (1).

4 (3) **PUBLIC AVAILABILITY.**—The map prepared
5 under paragraph (1) and the legal description pre-
6 pared under paragraph (2) shall be on file and avail-
7 able for public inspection in the appropriate offices
8 of the National Park Service.

9 (4) **BOUNDARY REVISION.**—The Secretary may,
10 as necessary, make minor revisions to the boundary
11 of the site in accordance with section 7(c) of the
12 Land and Water Conservation Act of 1965 (16
13 U.S.C. 460l–9(c)).

14 **SEC. 5. ADMINISTRATION.**

15 (a) **IN GENERAL.**—The Secretary shall manage the
16 site in accordance with—

17 (1) this Act;

18 (2) the Act entitled “An Act to establish a Na-
19 tional Park Service, and for other purposes”, ap-
20 proved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1
21 et seq.);

22 (3) the Act of August 21, 1935 (16 U.S.C. 461
23 et seq.); and

24 (4) other laws generally applicable to manage-
25 ment of units of the National Park System.

1 (b) MANAGEMENT.—The Secretary shall manage the
2 site—

3 (1) to protect and preserve the site, including—

4 (A) the topographic features that the Sec-
5 retary determines are important to the site;

6 (B) artifacts and other physical remains of
7 the Sand Creek Massacre; and

8 (C) the cultural landscape of the site, in a
9 manner that preserves, as closely as practicable,
10 the cultural landscape of the site as it appeared
11 at the time of the Sand Creek Massacre;

12 (2)(A) to interpret the natural and cultural re-
13 source values associated with the site; and

14 (B) provide for public understanding and ap-
15 preciation of, and preserve for future generations,
16 those values; and

17 (3) to memorialize, commemorate, and provide
18 information to visitors to the site to—

19 (A) enhance cultural understanding about
20 the site; and

21 (B) assist in minimizing the chances of
22 similar incidents in the future.

23 (c) CONSULTATION AND TRAINING.—

24 (1) IN GENERAL.—In developing the manage-
25 ment plan and preparing educational programs for

1 the public about the site, the Secretary shall consult
 2 ~~with the~~ *with and solicit advice and recommenda-*
 3 *tions from the* tribes and the State.

4 (2) AGREEMENTS.—The Secretary may enter
 5 into cooperative agreements with the tribes (includ-
 6 ing boards, committees, enterprises, and traditional
 7 leaders of the tribes) and the State to carry out this
 8 Act.

9 **SEC. 6. ACQUISITION OF PROPERTY.**

10 (a) IN GENERAL.—The Secretary may acquire land
 11 and interests in land within the boundaries of the site—

12 (1) through purchase (including purchase with
 13 donated or appropriated funds) only from a willing
 14 seller; and

15 (2) by donation, exchange, or other means, ex-
 16 cept that any land or interest in land owned by the
 17 State (including a political subdivision of the State)
 18 may be acquired only by donation.

19 ~~(b) AGRICULTURE; RANCHING.—The Secretary shall~~
 20 ~~permit traditional agricultural and ranching activities con-~~
 21 ~~ducted at the site on the date of enactment of this Act~~
 22 ~~to continue on privately owned land within the designated~~
 23 ~~boundary of the site in effect on the date of enactment~~
 24 ~~of this Act.~~

1 ~~(e)~~ (b) PRIORITY FOR ACQUISITION.—The Secretary
 2 shall give priority to the acquisition of land containing the
 3 marker in existence on the date of enactment of this Act,
 4 which states “Sand Creek Battleground, November 29
 5 and 30, 1864”, within the boundary of the site.

6 ~~(d)~~ (c) COST-EFFECTIVENESS.—

7 (1) IN GENERAL.—In acquiring land for the
 8 site, the Secretary, to the maximum extent prac-
 9 ticable, shall use cost-effective alternatives to Fed-
 10 eral fee ownership, including—

11 (A) the acquisition of conservation ease-
 12 ments; and

13 (B) other means of acquisition that are
 14 consistent with local zoning requirements.

15 (2) SUPPORT FACILITIES.—A support facility
 16 for the site that is not within the designated bound-
 17 ary of the site may be located in Kiowa County, Col-
 18 orado, subject to an agreement between the Sec-
 19 retary and the Commissioners of Kiowa County, Col-
 20 orado.

21 **SEC. 7. MANAGEMENT PLAN.**

22 (a) IN GENERAL.—Not later than 5 years after the
 23 date on which funds are made available to carry out this
 24 Act, the Secretary shall prepare a management plan for
 25 the site.

1 (b) INCLUSIONS.—The management plan shall cover,
2 at a minimum—

3 (1) measures for the preservation of the re-
4 sources of the site;

5 (2) requirements for the type and extent of de-
6 velopment and use of the site, including, for each
7 development—

8 (A) the general location;

9 (B) timing and implementation require-
10 ments; and

11 (C) anticipated costs;

12 (3) requirements for offsite support facilities in
13 Kiowa County;

14 (4) identification of, and implementation com-
15 mitments for, visitor carrying capacities for all areas
16 of the site;

17 (5) opportunities for involvement by the tribes
18 and the State in the formulation of educational pro-
19 grams for the site; and

20 (6) opportunities for involvement by the tribes,
21 the State, and other local and national entities in
22 the responsibilities of developing and supporting the
23 site.

1 **SEC. 8. SPECIAL NEEDS OF DESCENDANTS.**

2 (a) IN GENERAL.—A descendant shall have ~~special~~
 3 *reasonable* rights of access to, and use of, federally ac-
 4 quired land within the site, in accordance with the terms
 5 and conditions of a written agreement between the Sec-
 6 retary and the tribe of which the descendant is a member.

7 (b) COMMEMORATIVE NEEDS.—In addition to the
 8 rights described in subsection (a), any ~~special~~ *reasonable*
 9 need of a descendant shall be considered in park planning
 10 and operations, especially with respect to commemorative
 11 activities in designated areas within the site.

12 **SEC. 9. TRIBAL ACCESS FOR TRADITIONAL CULTURAL AND**
 13 **HISTORICAL OBSERVANCE.**

14 (a) ACCESS.—

15 (1) IN GENERAL.—The Secretary shall grant to
 16 any descendant or other member of a tribe reason-
 17 able access to federally acquired land within the site
 18 for the purpose of carrying out a traditional, cul-
 19 tural, or historical observance.

20 (2) NO FEE.—The Secretary shall not charge
 21 any fee for access granted under paragraph (1).

22 ~~(b) TEMPORARY MEASURES.—~~

23 ~~(1) IN GENERAL.—In addition to access grant-~~
 24 ~~ed under subsection (a), the Secretary, on a request~~
 25 ~~by a tribe, may take such temporary measures as~~
 26 ~~are necessary, regarding 1 or more portions of feder-~~

1 ally acquired land within the site, to protect the pri-
 2 vacy of any traditional, cultural, or historical observ-
 3 ance of the tribe that is conducted on that land.

4 (2) DURATION; AREA.—A temporary measure
 5 under paragraph (1) shall remain in effect only for
 6 the duration of, and with respect to the area in the
 7 site that is involved in, the carrying out of a tradi-
 8 tional, cultural, or historical observance under para-
 9 graph (1).

10 (b) *CONDITIONS OF ACCESS.*—*In granting access*
 11 *under subsection (a), the Secretary shall temporarily close*
 12 *to the general public one or more specific portions of the*
 13 *site in order to protect the privacy of tribal members engag-*
 14 *ing in a traditional, cultural, or historical observance in*
 15 *those portions; and any such closure shall be made in a*
 16 *manner that affects the smallest practicable area for the*
 17 *minimum period necessary for the purposes described above.*

18 (c) SAND CREEK REPATRIATION SITE.—

19 (1) IN GENERAL.—The Secretary shall dedicate
 20 a portion of the federally acquired land within the
 21 site to the establishment and operation of a site at
 22 which certain items referred to in paragraph (2)
 23 that are repatriated under the Native American
 24 Graves Protection and Repatriation Act (25 U.S.C.
 25 300 et seq.) or any other provision of law may be

1 interred, reinterred, preserved, or otherwise pro-
2 tected.

3 (2) ACCEPTABLE ITEMS.—The items referred to
4 in paragraph (1) are any items associated with the
5 Sand Creek Massacre, such as—

6 (A) Native American human remains;

7 (B) associated funerary objects;

8 (C) unassociated funerary objects;

9 (D) sacred objects; and

10 (E) objects of cultural patrimony.

11 (d) TRIBAL CONSULTATION.—In exercising any au-
12 thority under this section, the Secretary shall consult with,
13 and solicit advice and recommendations from, descendants
14 and ~~tribes located in the vicinity of the site.~~ *the tribes.*

15 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated such sums
17 as are necessary to carry out this Act.

Calendar No. 827

106TH CONGRESS
2D SESSION

S. 2950

[Report No. 106-418]

A BILL

To authorize the Secretary of the Interior to establish the Sand Creek Massacre National Historic Site in the State of Colorado.

SEPTEMBER 25 (legislative day, SEPTEMBER 22), 2000

Reported with amendments